

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

THOMAS KRAKAUER, on behalf of a class of persons,	)	CASE NO. 1:14-CV-00333-CCE-JEP
	)	
Plaintiff,	)	
	)	
v.	)	
DISH NETWORK L.L.C.,	)	
	)	
Defendant.	)	
	)	

**[PROPOSED] ORDER REGARDING  
THE DISPOSITION OF UNCLAIMED FUNDS**

The Court has retained jurisdiction over the disposition of unclaimed judgment funds and, pursuant to the Order on Claims Procedures, deferred decision on that issue until after entry of a final disbursement order (Doc. 441, ¶ 8). On February 13, 2020, the Court entered a final disbursement order (the “Disbursement Order”), as contemplated in the Order on Claims Procedures (Doc. 560, ¶ 9).

As of the date of entry of the Disbursement Order, \$41,559,145.57 was available on deposit with the Court for distribution (*id.* at ¶ 1). The Disbursement Order provides for \$30,799,312.20 to be transferred to the claims administrator (“KCC”), at the appropriate time, for disbursement of judgment funds to the 13,197 individuals (associated with 37,884 calls) listed on Exhibits A-C to the Disbursement Order (*id.* ¶ 4). The remaining balance represents damages awarded to 4,869 telephone numbers (associated with 13,235 calls) that lack an ascertained class member, less *pro rata* application of attorneys’ fees and expenses and KCC’s costs. Furthermore, it is expected that some unknown amount of additional unclaimed funds will remain from the judgment

funds slated for distribution to the individuals identified on Exhibits A-C of the Disbursement Order, because of uncashed checks, checks returned as undeliverable, and failure to provide W-9 forms.

Upon consideration of the parties' motions, briefs and arguments regarding the disposition of unclaimed funds, IT IS HEREBY ORDERED THAT:

1. Unclaimed funds related to damages awards with respect to 4,869 telephone numbers (associated with 13,235 calls) for which no class member has been ascertained, in the amount of at least \$10,759,922.65 (calculated at \$812.99 per call), plus interest, shall revert to DISH. Accordingly, within 10 days of the entry of this Order, the Clerk shall disburse to DISH, from the judgment funds on deposit with the Court, \$10,759,922.65, plus any additional accrued interest. These funds shall be wired to DISH based on bank account information to be provided under seal by DISH's counsel.

2. The Disbursement Order currently is stayed pending appeal. *See* Doc. 568. Provided that the Disbursement Order is upheld on appeal, once the mandate issues at the conclusion of the appeal, and the stay terminates, funds may be transferred to KCC for distribution to individuals listed on Exhibits A-C to the Disbursement Order. After KCC has exhausted its reasonable efforts to distribute funds to class members, and no sooner than 365 days after KCC or its designee receives funds pursuant to the Disbursement Order, KCC shall return to and deposit with the Clerk those funds that remain unclaimed due to (i) uncashed distribution checks; (ii) undeliverable distribution checks; and/or (ii) failure to provide a W-9 form. The unclaimed funds that KCC deposits with the Clerk shall revert to DISH. Those funds shall be wired to DISH within 10 days of deposit by

KCC, based on bank account information to be provided under seal by DISH's counsel.

SO ORDERED:

This \_\_\_\_ day of \_\_\_\_\_, 2020.

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UNITED STATES DISTRICT JUDGE